

## Office of Personnel Management

## § 293.108

their Social Security Number shall suffer no penalty or denial of benefits for refusing to provide it.

### **§ 293.106 Safeguarding information about individuals.**

(a) To ensure the security and confidentiality of personnel records, in whatever form, each agency shall establish administrative, technical, and physical controls to protect information in personnel records from unauthorized access, use, modification, destruction, or disclosure. As a minimum, these controls shall require that all persons whose official duties require access to and use of personnel records be responsible and accountable for safeguarding those records and for ensuring that the records are secured whenever they are not in use or under the direct control of authorized persons. Generally, personnel records should be held, processed, or stored only where facilities and conditions are adequate to prevent unauthorized access.

(b) Personnel records must be stored in metal filing cabinets which are locked when the records are not in use, or in a secured room. Alternative storage facilities may be employed provided they furnish an equivalent or greater degree of security than these methods. Except for access by the data subject, only employees whose official duties require access shall be allowed to handle and use personnel records, in whatever form or media the records might appear. To the extent feasible, entry into personnel record storage areas shall be similarly limited. Documentation of the removal of records from storage areas must be kept so that adequate control procedures can be established to assure that removed records are returned on a timely basis.

(c) Disposal and destruction of personnel records shall be in accordance with the General Record Schedule issued by the General Services Administration for the records or, alternatively, with Office or agency records control schedules approved by the National Archives and Records Service of the General Services Administration.

### **§ 293.107 Special safeguards for automated records.**

(a) In addition to following the security requirements of § 293.106 of this part, managers of automated personnel records shall establish administrative, technical, physical, and security safeguards for data about individuals in automated records, including input and output documents, reports, punched cards, magnetic tapes, disks, and on-line computer storage. The safeguards must be in writing to comply with the standards on automated data processing physical security issued by the National Bureau of Standards, U.S. Department of Commerce, and, as a minimum, must be sufficient to:

(1) Prevent careless, accidental, or unintentional disclosure, modification, or destruction of identifiable personal data;

(2) Minimize the risk that skilled technicians or knowledgeable persons could improperly obtain access to, modify, or destroy identifiable personnel data;

(3) Prevent casual entry by unskilled persons who have no official reason for access to such data;

(4) Minimize the risk of an unauthorized disclosure where use is made of identifiable personal data in testing of computer programs;

(5) Control the flow of data into, through, and from agency computer operations;

(6) Adequately protect identifiable data from environmental hazards and unnecessary exposure; and

(7) Assure adequate internal audit procedures to comply with these procedures.

(b) The disposal of identifiable personal data in automated files is to be accomplished in such a manner as to make the data unobtainable to unauthorized personnel. Unneeded personal data stored on reusable media such as magnetic tapes and disks must be erased prior to release of the media for reuse.

### **§ 293.108 Rules of conduct.**

(a) *Scope.* These rules of conduct apply to all Office and agency employees responsible for creation, development, maintenance, processing, use,

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dissemination, and safeguarding of personnel records. The Office and agencies shall require that such employees are familiar with these and appropriate supplemental agency internal regulations.

(b) *Standards of conduct.* Office and agency employees whose official duties involve personnel records shall be sensitive to individual rights to personal privacy and shall not disclose information from any personnel record unless disclosure is part of their official duties or required by executive order, regulation, or statute (e.g., required by the Freedom of Information Act, 5 U.S.C. 552).

(c) *Improper uses of personnel information.* Any Office or agency employee who makes a disclosure of personnel records knowing that such disclosure is unauthorized, or otherwise knowingly violates these regulations, shall be subject to disciplinary action and may also be subject to criminal penalties where the records are subject to the Privacy Act (5 U.S.C. 552a). Employees are prohibited from using personnel information not available to the public, gained through official duties, for commercial solicitation or sale, or for personal gain.

### **Subpart B—Personnel Records Subject to the Privacy Act**

#### **§ 293.201 Purpose.**

The purpose of this subpart is to set forth the criteria to be used to determine when personnel records on individuals are subject both to the regulations contained in this part and to Office or agency regulations implementing the Privacy Act of 1974, 5 U.S.C. 552a. When personnel records are maintained within a system of records, the records are deemed to be within the scope of both the regulations in this part and Office or agency regulations implementing the Privacy Act.

#### **§ 293.202 Records subject to Office or agency Privacy Act regulations.**

When the Office of Personnel Management publishes in the FEDERAL REGISTER a notice of system of records for personnel records which are maintained by the agencies or by the Office, that system of records will be subject

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to the regulations in this part and also to the regulations in part 297 of this chapter. When agencies publish a notice of system of records for personnel records required by the Office that are not included in the Office's notices, those agency systems of records will be subject both to the regulations contained in this part and to agency promulgated regulations that implement the Privacy Act.

#### **§ 293.203 Review of Office or agency practices.**

Reviews of agency personnel management policies and practices will be conducted to insure compliance with Office regulations. The Office may direct agencies to take whatever corrective action is necessary. Office or agency officials who have knowledge of violations of these regulations shall take whatever corrective action is necessary. Agencies shall list officials of the Office of Personnel Management as a routine user for personnel records to assist the Office in its oversight responsibilities.

### **Subpart C—Official Personnel Folder**

**AUTHORITY:** 5 U.S.C. 552; 5 U.S.C. 552a; 5 U.S.C. 1103; 5 U.S.C. 1104; 5 U.S.C. 1302, 5 U.S.C. 2951(2), 5 U.S.C. 3301; 5 U.S.C. 4315; E.O. 12107 (December 28, 1978), 3 CFR 1954–1958 Compilation; E.O. 9830 (February 24, 1947); 3 CFR 1943–1948 Compilation.

**SOURCE:** 50 FR 3309, Jan. 24, 1985, unless otherwise noted.

#### **§ 293.301 Applicability of regulations.**

Except for those agencies specifically excluded from Office of Personnel Management (OPM) recordkeeping requirements by statute, OPM regulation, or formal agreement between OPM and the agency, this subpart applies to—and within this subpart agency means—each executive department and independent establishment of the Federal Government; each corporation wholly owned or controlled by the United States; and, with respect to positions subject to civil service rules and regulations, the legislative and judicial branches of the Federal Government. OPM will list agencies to which this subpart does not apply in the